

H.R. 1937, National Strategic and Critical Minerals Production Act of 2015

FLOOR SITUATION

On Thursday, October 22, 2015, the House will consider [H.R. 1937](#), *the National Strategic and Critical Minerals Production Act of 2015*, under a [structured rule](#). H.R. 1937 was introduced on April 22, 2015 by Rep. Mark Amodei (R-NV) and was referred to the Committee on Natural Resources, and in addition, to the Committee on the Judiciary. The Natural Resources Committee ordered the bill reported by a vote of 23 to 14 on July 9, 2015.

SUMMARY

H.R. 1937 requires the Secretary of the Interior and the Secretary of Agriculture to more efficiently develop domestic sources of the minerals and mineral materials that are of strategic and critical importance to the United States.

Specifically, the bill:

- Tasks the lead agency responsible for issuing a permit with appointing a project lead to coordinate with other agencies. The project lead must engage with other agencies early in the permitting process to minimize delays and duplicative reviews, and ensure that timelines are being set and observed.
- Requires that the lead agency, in coordinating the permitting process for a project, defer to data and analyses provided by state agencies that have jurisdiction over the project.
- Requires the lead agency and other coordinating agencies, at the request of the permit applicant, to set time limits for each part of the permitting process. The time limit for the total review process may not exceed 30 months unless all the parties agree.
- Provides for expedited review and publishing of notices in the Federal Register pertaining to mineral exploration and mining.
- Requires that civil lawsuits challenging agency actions affecting permits be filed within 60 days of the action being challenged.
- Prohibits the payment of attorney's fees, expenses and other costs by the government to any party in a covered civil action.

The bill defines 'strategic and critical minerals' as minerals that are necessary: for national defense and national security requirements; for the Nation's energy infrastructure, including pipelines, refining capacity, electrical power generation and transmission, and renewable energy production; to support domestic manufacturing, agriculture, housing, telecommunications, health care, and transportation infrastructure; or for the nation's economic security and balance of trade.

BACKGROUND

The production of minerals and mineral resources "is a key economic activity, supplying strategic and critical metals and minerals essential for agriculture, communication, technology, construction, health care, manufacturing, transportation, and the arts."¹ Specifically, "strategic metals and metal alloys are an integral component of aerospace, defense, and other critical infrastructure."²

Although the United States is among the world's leading producers of important metals and minerals, "U.S. mineral exploration stagnated or declined during most of the 1990s and 2000s while global mineral exploration trends were strongly positive."³ The decline can be attributed, in part, to burdensome regulatory and administrative changes to the permitting process.

In addition, "federal and state agencies with land management and regulatory responsibilities over mineral exploration and development projects [have] worked at cross purposes to one another," complicating the cumbersome permitting process. Moreover, legal challenges under the National Environmental Policy Act (NEPA) have added uncertainty to the process for obtaining permits necessary for exploration and development. The permit approval process in the United States now averages 7 to 10 years.⁴

The United States "lacks a coherent national policy to assure domestic availability of minerals essential for national economic well-being, national security, and global economic competitiveness."⁵ The most prominent example is the nation's dependence on China for rare-earth elements and rare metals, elements necessary for telecommunications, military technologies, health-care technologies, and conventional and renewable energy technologies.

H.R. 1937 is designed to streamline the permitting process for mineral exploration and mining projects and allow the U.S. to develop these critical resources, thereby creating jobs, strengthening the economy, and enhancing national security. According to Chairman Bishop, the bill "will ensure access to minerals critical not only for our nation's security, but for the domestic generation of electronics, aerospace, electricity, renewable energy, manufacturing, housing, transportation, agriculture and much more."⁶

In the 113th Congress, the House passed a similar bill (H.R. 761) by a vote of [246 to 178](#) on September 18, 2013. In the 112th Congress, the House passed a similar bill (H.R. 4402) by a vote of [256 to 160](#) on July 12, 2012. The Senate did not act on either bill.

¹ [House Report 114-253](#), Part 1, at 1.

² Id. at 1 and 2.

³ Id. at 2.

⁴ Id.

⁵ Id. at 3.

⁶ See Press Release—"Chairman Bishop Opening Statement at the Full Committee Markup on H.R. 487, H.R. 959, H.R. 1554, H.R. 1937, H.R. 1949, H.R. 2223, H.R. 2791, H.R. 2898, S. 501," July 8, 2015.

COST

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1937 would have no significant effect on the federal budget. Because enacting the bill could reduce mandatory payments for attorneys' fees over the 2016 to 2025 period, pay-as-you-go procedures apply. However, CBO estimates that any such effects would be minimal. Enacting the bill would not affect revenues.

AMENDMENTS

1. Rep. Alan Lowenthal (D-CA)—The [amendment](#) replaces the bill's definition of "strategic and critical minerals" with the accepted definition from the National Research Council.
2. Rep. Debbie Dingell (D-MI)—The [amendment](#) ensures that mining permits are fully reviewed under the National Environmental Policy Act.
3. Rep. Matt Cartwright (D-PA)—The [amendment](#) strikes sections of the bill that would limit judicial review of agency actions and prevent the awarding of attorney's fees under the Equal Access to Justice Act.
4. Rep. Steve Pearce (R-NM)—The [amendment](#) clarifies that the bill does not affect Secretarial Order 3324, issued by the Department of the Interior.
5. Rep. Alcee Hastings (D-FL)—The [amendment](#) requires demonstration for proposed projects that domestic capacity to produce strategic and critical minerals is less than 80 percent of domestic requirements and requires publication of intent to transport or sell strategic and critical mineral intermediate and final products outside of the United States unless the domestic capacity exceeds 80 percent.

STAFF CONTACT

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